



Queen's University  
Library

KINGSTON, ONTARIO









James Stewart's  
ANSWER

To a Letter writ by

Mijn Heer Fagel

Pensioner to the States of

Holland & West-Friesland,

Concerning the

REPEAL

Of the

Penal Laws and Tests.



---

This may be Printed, *Ja. Vernon.*

---

London, Printed and are to be sold, by *Andrew Sowle*, at the  
New-Lit Court in Grace-Church Street

1680.877



James Stewart's  
**A N S W E R**  
 To  
 Pensioner Fagel's  
**L E T T E R.**

*My Lord,*

**I** Was so much surpris'd to see a Letter appear in Print, in *January* last, Entituled *A Letter writ by Mijn Heer Fagel Pensioner of Holland to Mr James Stewart Advocate, giving an account of the Prince and Princess of Orange's thoughts concerning the repeal of the Tests, and of the Penal Laws*; that reflecting on my own meanness, with the far different figure that our Lordship makes in the World, and withal considering the remoteness of the occasion given for *that Letter*, the high and tender import of the matters therein treated, with the obvious Singularity of such a foreign interposition, beyond all ordinary lines and rules, I was, at first inclined to dis-believe my own Eyes.

True it is, that after my return into *England* in *July* last, I was so well satisfied with what I observed of his *Majesties* sincere Intention, and steady Resolution, to perfect the Settlement of our Religious Liberty by a Legal

gal and Perpetual Establishment, (which I doubted would calm the late violent distractions of these Kingdoms, and in the end overcome that froward opposition which remains in some Spirits, too narrow for such a Blessing ) that I thought I could not, in my little *Sphere*, do a piece of better Service both to God and Man, than to contribute my small endeavours, toward the advancing of so good a Work, and particularly, towards the removing of some mistakes and jealousies which I knew to be entertained in those parts that I had left.

For this end, having obtained leave to write to a private Friend, who I judged might have opportunity to represent any thing I could say, to the best advantage, I did by several Letters directed to him (for to your Lordship I neither sent nor directed any, as looking upon that to be a thing not only too presumptuous, but also most improper, and against which I was expressly cautioned) declare in what a different posture I had found things in these Kingdoms, from what I and others had believed them, while I was in *Holland*; and having in two of them especially, (the only Letters intended for communication) laid down for my ground his *Majesties* Sincerity in all this affair, evident not only by his Royal Word, but even demonstrable by things themselves, I proceeded to evince by a few Arguments the Equity and Expediency of repealing both *Tests* and *Penal Lawes*, and that with a peculiar regard to the *Prince* and *Princess* of *Orange's* interest.

And being grieved in my self at the

their Highnesses Reluctancy to the thing, and Uneasiness about it, especially as to the Repeal of the *Test*; and wishing, as I do still, that from the beginning they had complied more heartily with his *Majesties* pleasure for the establishing of this *Liberty*, and that they would yet resolve to concur with him in it, or that at least the obstruction of their known Dissent might be removed; I adventured to add the best perswasives I could think on for that effect; desiring in the end that what I had written should be imparted to Friends, & chiefly to those at the *Hague*, (whereof I hope your Lordship is still One, according to the honour you were pleased to allow me while I was there) for their more full Information and Satisfaction. And this, to the best of my remembrance, is the Sum and Substance of all I writ on that occasion.

To this, after some waiting, I had my Friends Answer, telling me that he had confer'd with you upon the Subject, and found that the *Prince* had already declared himself in these matters, and particularly to the *Lord Albeville* His *Majesties* Envoy; and that He was not to be moved to go any greater length in them than he had then exprest. That Answer having drawn from me a Return of some more earnest Expressions of my grief for so great an unhappiness, I resolv'd to insist no further. Only my Friend insinuating that he had still hopes to get a more distinct and satisfying Answer from a better hand, (tho without naming any person) I attended the issue: And accordingly about the beginning of *November* (almost three Months after my first Writing) he sent me

a Letter from your Lordship<sup>4</sup> writ in *Latin*, with an *Eng-lish* Version.

Those I received at *London* : And acknowledge with all humility the singular Honour you were pleased to do me therein ; which on any other occasion I should certainly have expressed my sense of, with all readiness. But finding them to be Letters directly from your Lordship, (to whom I had not written) and that they contained an account of their Highnesses thoughts, about the Repeal of the *Tests* and *Penal Lawes*, (which I had not desired) together with your own Reasonings in justification thereof ; Both your publick Character, and the matters treated, moved me to put them immediately out of my hands, in the most safe and dutiful manner ; resolving rather to refer my self to the knowledge that some persons had of my ways, for clearing the mistake insinuated in the entry of your Letter, (as if I had presumed to write to you, or for such a purpose) than to pursue with more noise an explication of what I thought would proceed no further. Yet my Friend advising me, by the next Post after that which brought your Letter, that when you gave it to him, you told him you had given out a Copy or two to Friends there ; And my Apprehensions suggesting that a Letter, so dilligently and accurately writ upon so slender an occasion, might either have a further prospect, or at least be further made use of, I immediately returned him answer, that, tho I was confident you were far from interposing in his *Majesties* affairs, by causing any thing to

be printed to his Disservice, and no less assured that you would not suffer so obscure a name as mine to be unnecessarily heard of in so great matters, yet I knew how ready some persons in your Parts were to lay hold on any thing that might cross his *Majesties* purpose for the Establishing of this *Liberty*; and therefore I intreated him to use his utmost indeavours for the prevention thereof. And accordingly I had his return, that though he feared you were no more Master of the Copies you had given out, yet as to my private Letters, writ so familiarly and ingenuously to himself, he would undoubtedly secure them.

So that truly when I first saw the *printed Letter* above mentioned, and perceived by the *Impression* that it was done in *Holland*, I did not doubt but it was done without your Lordships privity, and therefore laid it aside without once Reading it.

But now that there is come abroad a new Print in your Lordships name, (upon what provocation I know not) which plainly affirms "That you were very earnestly desired by me to write what were the Prince and Princess of Orange's thoughts, concerning the Repealing of the Test and Penal Laws, and that it was intimated to you that these pressing desires were made by his Majesties Knowledge and Allowance; I can no longer forbear, for the vindication of his *Majesties* Honour, and my own Duty, to crave leave to say, with all submission, that the difference of this Account from what I have above represented, (and which I am sure is true in every point) must of necessity flow

Letters. For since I did not write any Letter to yourself, and that my writing to my Friend was not out of any curiosity to know their Highnesses thoughts about the Repealing of *Penal Laws* and *Tests*, (which it is evident I already knew sufficiently, and which had been, as you well say, before particularly signified to the *Marquis* of *Alberville*) But for a quite different purpose, as I have before ingenuously represented it; How could his Majesties Knowledge and Allowance be avouched by me for that which was not? It is true, I find it said in one of mine, *That what I writ on the nineteenth of July was writ not only with Permission, but according to his Majesties minde sufficiently expressed.* And this may also have been elsewhere repeated in other terms. But its as true that the intent and meaning of those words was only to inforce some Arguments I had used for *Liberty*, which my Friend inclined to think I had too confidently advanced; and no wayes to assume to my self an authority for writing what I really neither had writ, nor intended to write. There being nothing more certain than that, although his *Majesty* might have permitted me, as he doth many others, to use my little endeavours for the advancing of his Service, yet it was never either thought by my self, or moved to me by any other, to write to your Lordship, or to any other Person, either in his *Majesties* name, (a presumption and indecency which I cann not mention without blushing) or in the name of any of his Secretaries: And neither was there the least necessity to inquire into their Highnesses thoughts in the aforesaid matter, since they were already perfect-

ly known, and to none more distinctly than to his Majesty himself, as all my Letters do very plainly suppose.

Seeing therefore that this last Print doth, in several passages, intimate that your Letter of the Fourth of *November* was not only a true Letter, but published by your order, (tho I know not why it should insinuate as if that Letter had been first printed in *England*) and that any thing relating to me is manifestly extrinick to the point of the reality of your Letter; I cannot but again in all humility wish that *Your Lordship* had forbore to press so hard upon me, for justifying a Publication which evidently was a pure Act of your own free choice, and no doubt calculated for a far different End than what was by me intended.

But since I have acknowledged that you did me the honour to write to me, and that you now own the printed Copy to be the true Copy of what was so writ, and thereby as it were call me to consider it more particularly; I shall no longer decline the liberty you allow me, but freely explain my thoughts upon it in all sincerity; and submit them to your profound Judgment; Especially seeing it is in order to no other Ends than those I formerly proposed, and which I am perswaded You approve as much as I do.

What you declare to be their Highnesses thoughts and opinion, concerning the Repeal of the *Test* and *Penal Laws*, as it was not the Subject of my Inquiry, so is it above the Sphere of my Consideration; only seeing They seem to be under no restraint, as to a full com-

phiance with his *Majesties* design, except from their care of the Security of the Protestant Religion, I am not without hopes that, when they shall have considered his *Majesties* no less express Purpose for the Establishment of Liberty, (the only Secular Security and Advantage that Gods Religion requires) than for the procuring of the aforesaid Repeal in order to Men's just Relief; Their Highnesses second Thoughts may yet happily advance, and ripen so fair an Appearance.

But the Question, as by me formerly stated, was precisely, 'Whether all Protestant Dissenters ought not to concur with his *Majesty*, by contributing their best Endeavours to have the Penal Laws in matters of Religion and Conscience abrogated, and the present Liberty legally Established and Fixt; And whether, if his *Majesty* should in Favour of his *Roman Catholick* Subjects think fit to make the abrogating of the Test a condition of the continuance of his Grant of Liberty, He ought not in this also to be readily gratified, for so great a Favour. Now your Agreement as to the entire abrogation of all Penal Coercive Laws is altogether becoming your Sound Judgment and Christian Charity. Your Hesitation seems to be about the Law of the Test, and those other Laws made for excluding *Roman Catholicks* from Publick Trusts, and securing the Protestant Religion; to the repeal whereof you think no Protestant can in Conscience consent. And the sum and force of all your Reasonings resolves into this; *That the Laws for the Test and disabling Roman Catholicks to enjoy Publick Trusts contain no Severities against them, nor import any wrong that any who cannot comply*



with their Conditions ought justly to complain of; But that they were fairly made according to the Custom of all Christian States, and the very Natural Right of all Politick Bodies, who have ever made Laws for securing the publick established Religion, and their own Safety, by excluding the Enemies thereof from all Publick Employments. And the Law for the Test being of this Sort, you conclude that the Repeal of it would take away all the Security of the Protestant Religion, and expose the Nation to most certain Danger; Because All Governours do naturally favour those of their own Religion; and the way of Roman Catholicks is so unequal towards Protestants, that it must be concluded they would never agree with them in the joynt-administration of Publick Trusts, but would press his Majesty in Conscience until they were possessed of All, even to the depriving Protestants of the Support of the Law, and Protection of the Magistrate. So that on the one hand it is indeed manifest by the whole substance of your Discourse That, if the Repeal of the Test and Admission of Roman Catholicks to Publick Employments do take away all the Security of the Protestant Religion, and expose it to Ruin; then no true Protestant ought to consent to it: But on the other hand it follows no less evidently, That if it can be shewed that the Protestant Religion may be sufficiently secured without the Law of the Test, and moreover that the Legal Establishment of the present Liberty (as design'd by his Majesty) doth in all probability tend more to the Advantage than Prejudice of the Protestant Religion; then they both may, and ought to do it

But because the matters in hand do, above all others, require a clear and sound minde, free from all preju-

dice and pre-possession, and are not to be determined by general rules only and abstract notions, but ought to be examined with a just exactness in all their circumstances; Before I go any further, I must intreat you (in the first place) to remember the solid Reflection you make in your Letter upon the Spirituality & Heavenly-ness of the Christian Religion: Which I am sure, if duly considered and improved, would not only convince others, as it doth you, of the absurdity of all forcible and compulsory methods for its advancement, but also compose and sweeten Mens minds, and thereby prepare them to a more clear understanding and equitable determination of the point in Controversie.

That Faith and Obedience towards God (which are only so far acceptable to him, so they proceed from a willing minde) cannot be constrained, without an open mockery of God, and violence to the rights of Men, is a plain dictate of Reason, which all Times and Dispensations have acknowledged. But more especially that gentle Spirit of the Gospel, which Christ so often owns and recommends, and whose Characters are so visible in all his own and his Apostles Practices, seems to carry the thing yet a greater length. I need not put you in minde that the Gospel was not sent (as the Law) unto One, but unto All Nations; that our Lord, by asserting his Kingdom not to be of this World, doth not only assure to all men their Civil Rights, as then by them possessed, but in my opinion removes its Administration further than is commonly supposed from all Secular Mixtures; And that God's Choice of the Foolish-

ness and Weakness of Men for its Propagation (designedly and expressly to the greater commendation of the power of his Grace) doth very probably supercede much of that humane Caution which men have thought fit, but never with any Success, to add to his better Counsel. But undoubtedly if any man seriously ponders how the Gospel at first set out, and how by its own pure and spiritual Weapons, without any assistance of men's Laws, it prospered, to the subduing of the World; and at the same time call to mind that certain Truth, That every thing is best preserved by the same Causes that produced it; He will hardly be induced to think that these Exclusive Laws, which you say are now so Customary in all Christian Kingdoms and States, are in deed so necessary as is imagined for the Conservation and Security of Religion. For my part, when I reflect on plain matter of Fact, *viz.* That when the Gospel did at first get footing in Cities or Kingdoms, and its Disciples came afterwards to be persecuted by the Government and Body of the People, still *Pagan*, (it may be by Tests as well as other Penal Laws) they did not lay the stress of their Apologies upon the Truth of their Profession (which they knew their Persecutors rejected) but only upon their Civil Rights and Liberties, as Men; I cannot but think it very unjustifiable for the same Persons, or others of the same Perswasion (when afterwards grown more numerous and powerful) to retaliate the same dealing to their old Adversaries. But, not to press too hard upon these Excluding Laws, which I believe many, thinking piously that Gods Gift deserved their best care,

have introduced in great sincerity ; I shall only add, that as it is evident they were never any where enacted for the Preservation of Religion, until Religion had first prevailed and done its greatest work, So the best Effects they have ever produced, have always been, either to make Hypocritical Converts, or else to distinguish, irritate, and unite into a Factious Obstinacy, such as in probability would sooner have yielded to a more equal and moderate Treatment. But the best of it is, That tho a Ruling Clergy, (the worst of Politicians) have always been observed to be most forward to procure such Sanctions, Yet are they still but Human Laws and Expedients, and therefore absolutely at the disposal of the same Powers that made them.

But in the next place, Since you have been pleased to interpose so far in our Affairs, let me now intreat you to enlarge your Thoughts a little further upon our present Circumstances. The King is our Sovereign ; And his Majesties Perswasion and Religion, with what he hath already done, and may hereafter do, as also what he designs to have done in Parliament touching this Liberty, are sufficiently known : Nor are you altogether a Stranger to the State of Religion, the Parties who compose it, the Laws made about it, and the Effects they have produced, within these Kingdoms. Now for my part, I heartily wish that the *Church of England* had always been as much Protestant as at present she pretends to be ; That now, when she hath leisure, She may no less zealously mind and cleave to her own Doctrine, and its sincere Lovers, than sometime we have seen her violent for her

Ceremonies, and angry at Men that were not of her  
 Fashion ; and, what ever may be the issue of things, That  
 all *Protestant Dissenters* may always love her more (if more  
 be possible ) for our agreement in Substantials, than she  
 hath hated and persecuted them for their disagreement  
 in Circumstantials. But considering what opinion some  
 Men have entertained about the good effects of these  
 Penal and Exclusive Laws, And, on the contrary, what  
 Sufferings many Thousands of *Protestants* have in all  
 times undergone, and should still in all appearance have  
 undergone by them, even to their utter undoing, if his  
*Majesty* had not graciously vouchsafed to hinder it ; And  
 observing at the same time how improbable, or rather  
 impossible, it is that the *Church of England*, if in Power,  
 should either remain without those Laws, or suffer  
 those Laws to remain without Execution ; I must  
 humbly crave leave to say, that for *Protestant Dissenters*  
 to neglect the present opportunity, and not to comply  
 with his *Majesties* pleasure to have them totally and for  
 ever abrogated, is, in my opinion, no better than to re-  
 ject the Goodness of God, and to abandon themselves to  
 their Adversaries. It hath been the fate of these King-  
 doms since the first beginning of our Reformation, that  
 all Parties, *Papist, Protestant, Prelate, Presbyterian,* and  
*Independent* also, have in their several turns, both practi-  
 sed Persecution and repented their doing it : And now  
 of late when the last Scene was the blackest, and mens  
 troubles were further heightened by their apprehensions  
 of what was to come, It hath pleased God to raise us  
 up a *Prince*, Who tho he be of another Perswasion, and

had (as all thinking men must grant) the fairest advantage to promote it, by pursuing only those methods which he found ready disposed to his hand; yet hath been pleased, out of his just consideration of the true Rights of God and Man, and his tender and fatherly care of all his People, to deliver us out of bondage, and introduce us into a State of Christian Liberty. This as it is his *Majesties* peculiar glory, denied to all his predecessors, ought the rather to be closed withal by his People. And surely we are not justly blamable, if neither the unhappy relicks of old Prejudices, nor present Jealousies, nor even future Hopes, do hinder us from embracing the present opportunity of securing to our selves and to our posterity so great a Blessing.

The greatest part of what I have here said I know you will readily assent to, and that it is only the Law of the *Test*, (which you judg to be both righteous and necessary) that you would have still maintained. And therefore (referring my full Answer upon that head to its proper place) I shall only here again put you in mind that the *King* is our Sovereign, whose power goes far, both as to the bestowing of Publick Employments, and also as to the continuing or restraining of our present Liberty at his pleasure; That it is to me unaccountable how any *Protestant* should think the enjoyment of our present Liberty not to be more valuable than all our exclusive Laws; and that, as I have above given a hint of my own sense of all such human cautions, so I hope it will easily be made appear, that there is neither that security in the *Test* nor danger in its Repeal, which

some Men, pretending in shew to keep up the *Test* against *Roman Catholicks*, but intending in reality to keep up the *Penal Laws* against Protestant Dissenters, would gladly have you and other Strangers to believe, on their bare assertion.

But further yet, I would again humbly beseech you to observe, that it is not a simple Repeal of *Tests* and *Penal Laws* that his Majesty proposes, but really and principally the Establishment of an equal and fair Liberty; which is the onely Secular Advantage, as I have already said, that true Religion requires. Men talk ordinarily of the repeal of *Tests* and *Penal Laws*, as if that were the only thing intended: And thereupon their Minds are immediately over-clouded with this Prejudice; That the Protestant Religion *must needs be thereby diverted of all Legal Security*. Whereas on the other hand, if they would take notice how careful *His Majesty* hath been in His first *Proclamation*, and in His Answer to most of the *Addresses*, to declare himself for such a just and secure Liberty of *Conscience* as may for ever set us free from Persecutions and Impositions, and how, in His late *Proclamation* of the Twenty seventh of *April* last, He publisheth his Resolution to use his utmost endeavours 'to establish Liberty of Conscience on such just and equal Foundations as will render it unalterable, and secure to all People the free exercise of their Religion for ever; They might easily rest satisfied that the Protestant Religion is to lose none of the Security she now enjoys, by all that is intended; save only the power of Persecuting and imposing upon others, which you your self do condemn.

It is true, you think the imposing of *Tests* upon all Persons in publick Employments is no undue Imposition. But whether it be so or not, and whether the Law of the *Test* be that great and indispensable Security of the *Protestant Religion* which you endeavour to make it, I shall now go on to consider. And because in effect nothing can be added to what hath been so fully said, and often repeated, by others, on this Subject, I shall do it with all possible brevity.

You say then against the repeal of the Law of the *Test*, and other exclusive Laws; First, *That they contain no unjust Severity.* 2dly, *That such Laws are agreeable to the Right and Rules of all Kingdoms and Civil Societies, and are used in all Christian Kingdoms and Common-Wealths.* And 3dly, *That they are the chief Security of the Protestant Religion in these Kingdoms, and that the taking them away would expose both the Protestant Religion and the People of these Kingdoms to Danger and Ruin.*

As to the first, whether the exclusive Laws contain any unjust Severity I shall not much contend. It is known that within these few Years we have had in *England Tests* of several Fashions, and for divers Perswasions, and that some of them have been so severe as to throw Men not only out of publick Employments, but out of their private Callings, and so to deprive them of their *Daily Bread*. A Man may also adventure to say that, all things duly weighed, *Those pretended pious and political Tests* have in our real Experience been more prejudicial to the true Interest of Religion, and the Peace and Wel-fare of these Nations, than ever their total Repeal can, in the most



strained rational Conjecture, be hurtful to either of them. So strange and unaccountable a thing is this humour of Testing.

But seeing you seem to confine your self to the *Test* against *Roman Catholicks* appointed principally for the two Houses of Parliament, I shall add more particularly; *First*, that according to what I have above touched, this appears to be but an extraneous unwarranted human Caution, and that it may justly be thought strange that, after Religion had through its own heavenly Power and Methods prevailed against all the human Laws, Councils, and other hinderances that stood in its way, Men should relaps, from such Divine Grounds of Confidence, to their own weak Contrivances, for its support and continuance: And further, that, however innocent you may now judge this Injunction to be; *Take the Test, or quit all publick Employments*; Yet I am fully assured, that, If in the Primitive times a *Prince* or other *Magistrate*, turning *Christian*, had, for the better Conservation of his Religion, set forth an Edict to his still *Pagan* Subjects, commanding them to *Turn from vain Idols to serve the Living and True God, or else to forsake all publick Places and Trusts*, He would have been Condemned for it by Christ and all his Apostles.

*Secondly*, That the effects of such Exclusions in all times have been no better than their Causes; and that, instead of preserving and securing our *Religion*, they have onely brought into it hypocritical and false Converts, or provoked those that were rejected to a more froward Obstinacy, and worse Practices, who otherwise might have

been gained by *Gentleness* and *Patience*, which are the genuine Methods of true *Christianity*.

And *Tbirdly*, That those who by Birth-right have a real Title to all the Honours and Priviledges of Peerage, And even All Men, Who, upon the like ground, do naturally judge that they have at least an equal right of access to Places and Preferments in the *Societies* whereof they are *Members* with others of their Degree and Quality, will never be perswaded to think that there is no *unjust Severity* in those excluding Laws which deprive them either of their acknowledged Priviledge, or no less valuable Pretensions. And since you are pleased to tell us That it is their Highnesses Judgment, *That no man should be ill usel because he differs from the Publick and Established Religion*, I question a little how you can reconcile the *striking of Peers*, and *civil Excommunication* of all others, (which I am sure is no good usage) for not taking the *Test*, to so true and honest a *Judgment*. It is easie for men who have either got themselves into publick Places, or got above the desire of such Places by a true *Christian Mortification*, to say with you, *That it is but a small, if indeed any, Advantage to have a share in the Government*. But, on the other hand, If it be considered that, As hundreds of Freemen can willingly confine themselves to the narrow corner of a private House, who yet could not endure to be imprisoned in a Palace, So it is the Exclusion, especially when lookt upon as Causeless and Unjust, that in this Case is really grievous, I am perswaded no impartial man will undertake to vindicate the Laws that enacted it from a great measure of Severity. And this I say from so

disinterested and so unbiassed a Judgment, that, for my own part, I sincerely protest that I am not only well content with my present Condition, but (if it might in any sort facilitate his *Majesties* Christian design of *Liberty*) I would also readily consent that all *Dissenters*, and my self amongst the rest, should be made incapable of all the more tempting publick Employments for ever.

But for justifying of these exclusive Laws, you say in the second place, *That they are agreeable to the Right and Rules of all Kingdoms and Civil Societies, to whom it was never denied to make Laws for their own safety, and for that end to prescribe the Conditions and Qualities that they judge necessary for all that shall bear publick Employments.* Now that all *Governours* may and ought to make rational and just Laws for their safety, and for the due conferring of their publick Employments, is in my mind so little to be doubted, that it needed not at all to have been mentioned. The only Speculation proper for our case is, *Whether These Exclusive Laws upon the account of difference in Religion, be either warrantable or profitable.* And seeing that I have already told you that they not only inroach upon Mens natural and civil Rights and Liberties, the principal Ends of Government, but do also in some sort bring a constraint upon the Profession of the Truth, which ought to be most free, and which the Apostle expressly will have to stand not in the Wisdom of Man (such as Penal Laws and Tests are) but in the Power of God, or in the same spiritual and heaven-

ly means whereby it was first established and is undoubtedly best preserved, I shall not trouble you with Repetitions. I see you add that such Laws have also been and are used in all Christian Kingdoms and Common-Wealths; and you might as truly have subjoyned, That even *Protestants*, when prevalent, do by their Practices justify *Roman Catholicks* in that very point for which they condemn them in their Discourses. But tho I confess that there is nothing more natural than for Men to be anxiously careful to preserve what they esteem, and in this their anxiety to judge their own way the best, especially when either Passion or Self-interest enter into the deliberation; Yet considering the experience we have had of the fruitfulness of these Exclusions, and that there is nothing more becoming Men professing to be assured that their Religion is Christs true Religion, than to rest upon the same methods for its conservation which he, who had the choice of all, thought only fit to make use of for its propagation; and considering also that it hath pleased God so to order things, that his Majesty (the Head & Fountain of the Government) is of a different persuasion from the main Body of the People, and so might justly turn all this your reasoning against us; I can scarce forbear to wonder that Men should refuse the fair Equality which he proposeth. Had it been the Divine Will that his Majesty and his People had agreed in the same Profession, it is more than probable that, whatever might have been

his Majesty's Indulgent disposition the present Question would not have been moved. But since this is not our case, and that the Kingdom and Government are certainly in his Hands, I must crave leave to say that your Arguments from the Rights and Customs, and from the providencial Councils of all Governments, makes more against you than for you; and that I am very inclinable to believe that if the Sovereign Power were as much *Roman Catholick* in your Provinces as it is with us, it would produce suitable Effects. And therefore, since your Argument rather commends his *Majesties* gracious Condescension, than any way impugns his Design, I cannot but wish that, in a matter in itself so indifferent, it may accordingly persuade all Men to a just compliance.

But because the *Indifferency* I here mention is that which you can hardly bear, and that the force of all your Reasonings lies in the third Point, *viz. That these Exclusive Laws are the chief Security of the Protestant Religion, and that the taking them away would expose the Protestant Religion, and the People of these Kingdoms, to Danger and Ruin*, I shall now proceed to examine more closely what you are pleased to say upon it: Not doubting, in the mean while, but we are fully agreed that the true and principal Security of the *Protestant Religion* consists in its being the immovable Truth of God, which if well laid to Heart would contribute more to its Preservation than all the *Tests and Penal Laws* in the World; And intrea-

ting you still to remember that it is not a bare Repeal of *Penal Laws* and *Tests* that his *Majesty* designs, but the sure and firm Establishment of *Liberty*, (the only secular Advantage, as I have often said, that Gods Truth requires) Which if rightly understood, and if a just distinction were made between the free Enjoyment of Civil Rights (the proper Object and End of Government) and that *Liberty of Conscience* in matters of *Religion* over which God has reserved to himself the incommunicable Right, would quickly bring the World to the happiest State that it can ever attain to. These things, I say, being premised, I proceed to observe what you say for making out your Assertion, viz. *That the taking away of these Exclusive Laws would bring Roman Catholicks into both Houses of Parliament and all other publick Employments; That in these Employments they would not agree with Protestants; But that because of their contrary Principles, Jealousies would arise, which his Majesty would not be able to repress; And that there is a great difference between Roman Catholicks and Protestants, because the former Exclude, Suppress and Persecute, where ever they can do it safely; And if they were admitted into Trusts they would not only favour their own Religion, as all Men in Power do, but it would not be easie for the King to resist them, because they would press him in point of Conscience; and that then Protestants would want all Support of Law, and Encouragement from the Magistrates.*

This way of Reasoning, so manifestly proceeding from an over anxious Jealousie, must needs be so

much the less Satisfactory, in that it is obvious to all Men how much that cross and froward Humour is disposed to convert the most proper Antidotes for its Cure, into the Nourishment of its Malady.

But more particularly, *First*, It is evident that the strength of all objected, tho in softer Expressions, Is *That this design of Liberty is only pretended and carried on for the better advancement of Popery.* But, seeing his Majesty hath in this matter declared the uprightnes of his Intentions with the clearest and most forcible Expressions, delivered with all the binding Circumstances of a full Assurance, which from a *Prince* of his Veracity and Firmness may be sufficient to convince the most Incredible, and also confirmed the sincerity of his Purpose by the Evidence of things incapable of any consistency with the Design suspected, what place can be found for so improbable a Suggestion? For it being undeniably evident to all considering Men that the plain contrary Measures to what his Majesty now practises had been the most direct and effectual Ones for the introducing of *Popery*; and that the pressing and carrying on the Execution of *Penal Laws*, begun to his Hand, might in all human appearance have broken and undone that Party which has in all times been judged remotest from, and most Opposite and Zealous against *Popery*; and so have left that other Party, the *Church of England*, (who after the acting of such an unchristian Persecution, would never have been strong enough nor have had the Hearts to indure the like, and whose sequacious Temper in matters of Religion, falling in with the Interest of their Livings and Dignities,

may abundantly be seen in our Records) to be the only feeble Defenders of *Protestancy*, already more than half ruined; Ought not his *Majesties* Moderate and Generous Deportment so contrary to those Methods for ever free Him from so foul a Suspition? This real and most sensible Demonstration of his *Majesties* Truth and Sincerity is so much the more to be regarded, in that it is known how His entry into the Government was fortified with the suppressing of Insurrections; which not only might have rendered His Power more terrible, and provok'd Him to greater Severities, but also might have been made use of to have involved one way or other (no new thing in the World) a great part of the *Dissenters* in the Fate and Ruin of those broken Parties.

But, *Secondly*, although you say *There is a great difference betwixt Roman Catholicks and Protestants in the business of Persecution*, Yet in the present Controversie, I must beg leave of you, and all *Protestants*, to say that this comes ill from those of the *Church of England*, whose Exclusions, Suppressions and Persecutions, (to use your own terms) all things considered, are in the Judgment of many sober People more Unchristian (tho perhaps not so Severe) than any of those deplorable Instances which you say are in many places abroad this Day before our Eyes. It is true that Strangers, having easier opportunity to know the Doctrine of the *Church of England*, agreeing with that of the best *Protestants*, than to observe their dealings with their Dissenting Brethren for the rejecting of her Ceremonies, can scarce think it possible that this Difference should have produced so Vi-



olent a Persecution ; especially against such who immediately before had done them the greatest Service, in contributing so readily to the means of their Restitution. And it is true also that some of that Communion, especially in your Parts, (as appears by their late Prints) do endeavour to Apologize for their former Rigours and Cruelties, partly by exclaiming against Persecution, and partly by suggesting that the late Severities used against *Dissenters* were set on Foot by a *Popish Party* and Design at Court, on purpose to increase their Number and render them more unquiet, that so the *Parliament* might have been constrain'd to grant a general *Toleratation* wherein the *Roman Catholicks* might be included ; The great Design of this Mystery. But the first of those Excuses being now too late, and the other being false, and visibly affected ; I cannot but still wish that this their extraordinary Zeal for the Exclusion of *Roman Catholicks* be not a meer effect of their itch after their former Power and Practice of Persecuting *Protestant Dissenters* ; and withal that the Remembrance of our late Sufferings may put *Protestants* as well as *Roman Catholicks* in mind of their Failings, to the end that all Parties may become more sober and averse to all manner of Persecution for ever.

*Thirdly*, Seeing you lay the greatest stress of your Argument upon the hazard that you pretend lies in the making of *Roman Catholicks* capable of, and giving them Entry into publick Employments, and particularly to take places in both Houses of Parliament, I intreat you to observe that it is evident in point of fact, that *Roman Catholicks* are already in many Publick Employ-

ments, and that those Employments will always depend, as they have ever depended, upon the pleasure of the *Prince Regnant*: So that considering how it is with us at this present, any Man that is possessed with this Fear ought rather to rejoyce then to be grieved at his *Majesty's* design of *Liberty*; Because it plainly carries a Relief against this Apprehension, by opening a Door to *Dissenting Protestants* also to enter into such Employments, who are not forward to do it while the restraining Laws, that lie upon them also, remain in force. And as his *Majesty* hath already begun to shew his Equality in conferring of Publick Employments as well on *Dissenters* as on *Roman Catholicks*, the taking away of those Laws will certainly induce Him to a yet greater Freedom in that particular. Whereas on the contrary, it is more than probable that the refusing to gratifie Him in that Repeal, may, instead of hindering *Roman Catholicks* to be further employed in Publick Trusts, rather provoke Him by the disobligation to intend the thing more vigorously; and also irritate that whole Party, (who must needs look upon this Denial for the present as a Threatning for the future) to more extraordinary and worse Courses. And as to what is commonly said, that the keeping up of the *Test* will at least be a Bar to many, who otherwise might be tempted to turn by the Bait of a good Employment; as also that it will be some Restraint upon such as are advanced, and make them act moderately; I must crave leave to say that the contrary is to me far more probable: For whosoever can be supposed capable to turn for a place, will

certainly time his turn, so as that it may have most of Merit ; and consequently will rather seek to recommend himself by a frank reliance upon the Kings Declaration for Liberty, than come in sneakingly afterwards under the Security of the desired Repeal; Especially when it cannot be doubted but that, both by the Fundamental Laws of Government, and also by the force of his Majesty's Prerogative, from which no Successor will willingly derogate, those that are or shall be employed are in all Events secured ; And that at least it is incontrovertibly as safe for a Man to accept of a publick Employment as to go to a Conventicle.

*Fourthly,* The most material Consideration on this Point seems to be much by you neglected, *viz.* *That we are not in the condition of an absolute free choice, but under the limited offer of a plain alternative, I mean, Either that the present Liberty shall be continued on condition that the restraints of Testis be also taken off from Roman Catholics; or else, if this be denied, that the other shall at least become more precarious.* Now, whether a true Protestant, having the fear of God, (as you express it) in this Conjunction, and in a just view of all our Circumstances, may not very allowably think that the free Liberty of the Gospel (as being Gods way) is more valuable, as to the Interest of the Protestant Religion, than the exclusion of a few Roman Catholics from having Place in Parliament, (for to this narrow Compass we see it plainly brought) which is but Man's way ; and whether this last may not well be consented to, for the establishing of the first, let all Impartial Men judge.

You tell us that *If the Protestant Dissenters should, upon this account, be deprived of their Liberty, the Roman Catholics are only to blame for it; Who, rather than be restrained from having a share in the Government, chuse to have both themselves and the Protestant Dissenters ly still under the weight of the Penal Laws.* But if the proposal made to the Dissenters be fair, and their compliance not sinful, you must of necessity grant that for them to be dispossessed of their Liberty (the great concern of their Souls, and the best method of supporting true Religion) is but poorly repaired, by telling them that the *Roman Catholics* are to blame for it.

Fifthly, Your frequent supposing *That the Roman Catholics will be still attempting to overturn the Protestant Religion, and disturb the Kingdoms Peace, and that they will get into all places of Trust, and press the King in Conscience, and give Him no rest until they accomplish their Designs,* appear to me to be too manifest improvements of a melancholy Jealousie. For, as hath been often said, It is not a simple Repeal of *Penal Laws and Tests,* but the Establishment of an equal Liberty, whereby the *Protestant* as well as the *Roman Catholick* may be secured against all Persecution, that his Majesty designs. So that it is not possible that you should judge the Repeal of the *Test* to be the licensing of *Roman Catholics* to attempt the ruin of the *Protestant Religion,* unless you think that the *Protestant Religion* can never by Law be secured against the attempts of others, if it be not at the same time armed with a Power to persecute them.

*Sixthly*, You tell us, *That Roman Catholicks are not shut out amongst you from Military Imphyments, and that it had been hard to have done it; both because the good Services they did you in the Wars for defence of your Liberty deserved that Re-compence; and because their Numbers being but few, any In-convenience arising from their admission might easily be prevented.* Now by this you plainly acknowledge that this whole matter is subject to a Rational Deliberation, and is to be determined by the weighing the Conveniencies and In-conveniencies that attend such an Admission or Exclusion, without entering into any deeper reflection, about the Lawfulness or Unlawfulness thereof. And further, I must tell you that his *Majesty* has not only the same Considerations that you mention to move Him in Favour of his *Roman Catholick* Subjects, but, all things considered, I think it may very well be asserted that the admitting of *Roman Catholicks* with you to Military Employments is much more unnecessary, than the admitting of them with us to place in Parliament (upon the Conditions declared) can be dangerous; and that if the Adventure be on this side more hazardous, yet it is compensated with counterbalancing Advantages, that render it much more excusable than your unnecessary Practice.

*Seventhly*, Tho you are pleased according to your ordinary Prudence and Moderation to propose your Fears with much Modesty, yet others there are in your Parts, as well as here, who speak out the Devices of their own Imaginations more plainly, and tell us *That if the Test were taken away, his Majesty might by a new Creation of Peers, and by bold Returns into the House of Commons, get a Parli-*

ment of such a Temper as would absolutely forbid the Exercise of the Protestant Religion, Revive the Act De Comburendo and make yet greater Alterations in the Government. But how vain and groundless, to say no worse, these Apprehensions are may appear by what his Majesty hath already done in putting a stop to our late Persecution; which in the opinion of many might have carried on that change in Religion more effectually (because more easily and insensibly) than the Act De Comburendo, and all the Fires that it kindled. Besides, whatever be the Security that Men ascribe to these Excluding Laws, it is only from the force they have as Acts of Parliament that it arises. Why then should not the same force of a Law as well secure the Protestant Religion in its just Liberty, without the Power of persecuting, as now its thought to do with it? And as for the Facility the King may have to fill both Houses with Roman Catholics, when the Test shall be abrogated, Why may he not as well first fill them in that manner, and abrogate it afterwards? For it is judged by many to be no less than a Fundamental in our Government that the King's Call, with the Peoples Choice, and the Lords and Commons Assembling thereupon with his Majesties Approbation, are all the Essentials of a Parliament; and that no Parliament can so pre-engage and limit another, by any Act or Oath, that it cannot Act as a Parliament until it first comply therewithal. If such a Power of Limitation were admitted, One Parliament might, by an Oath framed for the purpose, restrain, weaken, and even make

void the Power of all succeeding Parliaments for ever. So long indeed as *Oaths* and *Tests* appointed by Acts of Parliament do stand unrepealed, they are undoubtedly binding. But to think that One Parliament can so bind up and prescribe Rules to Another, that, tho it may repeal the very Act so binding and prescribing, yet it hath not Power to do so till first it submit it self by Oath unto the Rules prescribed (and then perjure it self by the Repeal) is an Absurdity against the very Essence of Parliaments.

But *Lastly*, As matters ought not to be strained on either side, (especially when all things concur on his *Majesties* part to perswade to a fair and right understanding, in order to the establishing of Peace, securing of Right and Property, and the putting an end to our so unnatural and unchristian Persecutions) So it cannot be doubted by any discerning Person, that the present Security of the *Protestant Religion* in these Kingdoms doth scarce at all depend on either *Penal Laws* or *Tests*, but principally on his *Majesties* Wisdom and Moderation, on the Constitution of our Government, and on those just Arguments for mutual Forbearance, which our present Circumstances do forcibly suggest to all Men, of all Parties, that are capable to understand their own Interest, and have not wholly abandoned the care of it. Seeing therefore that it remains evident, from what hath been said, that all these Exclusive Laws upon account of Religion, however Legal they may be called, are no ways Evangelical; and that though they may have been at first piously intended for the Conservation of Religion,  
and

and for the publick safety, yet in the event they have always proved unprofitable and unpolitick; And seeing also that all the Jealousies so industriously raised to obstruct his Majesties present Design of Liberty are sufficiently removed, not only by the assurance of his Royal Word, and the manifest engagement of his Honour, but by the demonstrative Evidence that lyes in the circumstances of things themselves, I cannot but heartily wish that all Men, and above all their Highnesses, may give their effectual concurrence to so good and great a work. It is I confess, as you say, very natural for All persons in Power to favour those of their own Religion: And this in my Opinion ought to oblige us to make the fairest construction of what his Majesty doth in behalf of those that are of his. But it must also be acknowledged that it is a very extraordinary, and a most noble and generous Disposition, in his Majesty, to be so gentle and indulgent to those of his Subjects that are of a different Religion from his: And that ought to beget in us an intire confidence in what he promises, and perswade all his Subjects, of what Profession soever, to rest assured both of a firm Support in the designed Law of Liberty, and of a favourable Protection in his Majesties Authority.

In my former Letters I adventured to insinuate to my Friend how much I judged their Highnesses obliged, as well by their own interest and that of the *Portestant Religion*, as by their Relation to his Majesty, to comply with him in this Affair. But that being a Subject too high and too delicate for me to engage any further in, I will not now presume to add any thing further upon it.



*My Lord,* having thus faithfully represented to you such thoughts as have occur'd to my mind upon the perusal of your Letter, I judge it not needful nor decent for me to enter into further particulars; As how this Liberty may be established, to all the Intents and withal the Advantages above mentioned. But, in my humble Opinion, his *Majesties Proclamations* of the fourth of *April* 1687. And of the twenty fourth of *April* last, are a very excellent Foundation for that Work; which I wish were compleated by a Parliamentary Ratification, to the vindicating of the Divine Right of Religion and Conscience from all Human Impositions, the confirming of our Peace, and the Advancement of his *Majesties* Glory and the Kingdoms Prosperity. It is no doubt a great Undertaking to offer to satisfy all the Jealousies and Fears that, in such high and tender matters, may arise from the conflict of so various Interests as are concerned therein. But this small Essay that I have made, being truly involuntary, & such as your Lordship hath in a manner extorted from me, I hope those Considerations will be accepted as a just Apology for my having thus far pursued it in all Sincerity. And for the future tho I am firmly resolved to meddle no more in such Debates, Yet I shal always remain, as I acknowledge my self to be indispensibly obliged,

*My Lord,*

Your *Lordships* most Humble and most Obedient Servant James Stewart.

Edinburgh, May }  
the 6th, 1688. }













